

STAFF REPORT

April 5, 2007

No. 07SV013 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement and to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code

ITEM 47

GENERAL INFORMATION:

PETITIONER	Dream Design International, Inc.
REQUEST	No. 07SV013 - Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement and to dedicate additional right-of-way as per Chapter 16.16 of the Rapid City Municipal Code
EXISTING LEGAL DESCRIPTION	Lot BR of Lot 2 of the SE1/4 SW1/4 of Section 29; Lot C of Lot 2 of the SE1/4 SW1/4 of Section 29; Tract C of the SW1/4 of Section 29; Lot 1 of the SW1/4 SE1/4 Section 29; Lot A of Lots 1 and 2 on the SE1/4 SE1/4 of Section 29; Lot 1R of Lots 1 and 2 of the SE1/4 SW1/4 of Section 29; unplatted portions of the SW1/4 of Section 29; Lot H-1, located in the N1/2 SE1/4 of Section 30; part of Lots 1 and 2, Block 2 of Rapps Addition, located in the SE1/4 of Section 30; part of Lot M, located in the NW1/4 SE1/4 of Section 30; part of Lot K-4 of Marshall Heights Tract, located in the SW1/4 of Section 30; and the unplatted portions of the SE1/4 of Section 30; and Tract C in the NE1/4 NW1/4 and the NW1/4 NE1/4 of Section 32; all located in T2N, R8E, of the BHM, Rapid City, Pennington County, South Dakota.
PROPOSED LEGAL DESCRIPTION	Lots 1 through 7 of Block 1, Tracts A, B, C, D, and E of Block 2, Lots 1 through 9 of Block 3, Tracts G and J, Eglin Street (formerly part Farnwood Avenue), Luna Avenue extension, areas dedicated for public right-of-way purposes, easements and vacation of easements and public right-of-ways of Rushmore Crossing in Sections 29, 30 and 32; all located in T2N, R8E, of the BHM, Rapid City, Pennington County, South Dakota.
PARCEL ACREAGE	Approximately 126.54 acres
LOCATION	Southeast of the intersection of Interstate 90 and North LaCrosse Street
EXISTING ZONING	General Commercial District - General Commercial

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District (Planned Development Designation) - Medium Density Residential District

SURROUNDING ZONING

North: General Commercial District - Light Industrial District (Planned Development Designation)
South: General Agriculture District - Low Density Residential District - Medium Density Residential District - General Commercial District
East: General Commercial District
West: General Commercial District

PUBLIC UTILITIES City sewer and water

DATE OF APPLICATION 2/23/2007

REVIEWED BY Vicki L. Fisher / Todd Peckosh

RECOMMENDATION:

Staff recommends that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Interstate 90 be approved with the following stipulation:

- 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;**

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along E. North Street be approved with the following stipulation:

- 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;**

That the Variance to the Subdivision Regulations to waive the requirement to install curb and gutter along Rapp Street be denied without prejudice;

That the Variance to the Subdivision Regulations to waive the requirement to install water and sewer along Rapp Street be approved with the following stipulation:

- 1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements;**

That the Variance to the Subdivision Regulations to waive the requirement to install sidewalk along Rapp Street be denied;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Spruce

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Street be denied without prejudice;

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Sunnyside Avenue and Cambell Street be approved with the following stipulation:

1. Prior to City Council approval, the applicant shall sign a waiver of right to protest any future assessment for the improvements; and,

That the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer and to reduce the easement width from 59 feet to 30 feet along the access easements be approved with the following stipulation:

1. Upon submittal of a Final Commercial Development Plan, pedestrian access shall be provided through the site, lighting shall be provided throughout the parking lots and along the access easements as needed, a separation shall be provided between the access easements and the parking areas and utilities shall be extended as needed to serve the proposed lot(s).

GENERAL COMMENTS:

(Update, March 28, 2007. All revised and/or added text is shown in bold print.) This item was continued at the March 22, 2007 Planning Commission meeting to allow the applicant to submit additional information.

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, sewer, water and pavement and to dedicate additional rights-of-way and/or easement(s). In addition, the applicant has submitted a Preliminary Plat application (#07PL038) to subdivide the subject property into 24 commercial lots and to vacate a 30 foot wide private access easement, to vacate a portion of a section line highway located between Sections 29 and 32, to vacate a portion of a section line highway located between Sections 29 and 30, to vacate a portion of Rapp Street and to vacate a 66 foot wide public access easement. The applicant has also submitted a Vacation of Right-of-way request (#07VR002) to vacate a portion of Rapp Street currently located in an H Lot. In addition, the applicant has submitted a Vacation of Right-of-way request (#07VR003) to vacate a portion of Farnwood Avenue, also located within an H Lot. The applicant has also submitted an Amendment to the Comprehensive Plan (#07CA010) to change the land use designation of a portion of the subject property, or 0.04 acres, from Medium Density Residential with a Planned Residential Development to General Commercial with a Planned Commercial Development. In addition, the applicant has submitted a Rezoning request (#07RZ015) to change the zoning designation of the 0.04 acre parcel from General Agriculture District to General Commercial District. The applicant has also submitted a Planned Development Designation request (#07PD016) for the 0.04 acre parcel. The proposed commercial development is to be known as "Rushmore Crossing".

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On August 1, 2005, the City Council approved a Layout Plat (#05PL085) to subdivide a 95.28 acre parcel into 17 commercial lots. The Layout Plat included the subject property.

On February 6, 2006, the City Council approved Tax Increment District #56 for the construction of streets, traffic signals, a regional drainage detention dam, high pressure water main and sanitary sewer main and the relocation of power lines associated with the proposed Rushmore Crossing project.

On October 2, 2006, the City Council approved a Layout Plat (#06PL142) to subdivide a 117.29 acre parcel into 15 commercial lots and two detention pond lots. The Layout Plat included the subject property.

The property is located between LaCrosse Street and E. North Street on the south side of U.S. Highway I-90 and is currently void of any structural development.

STAFF REVIEW:

The applicant has submitted a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement along Interstate 90, Spruce Street, E. North Street, Sunnyside Avenue and Cambell Street, to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer along Rapp Street and the proposed access easements, and, to waive the requirement to dedicate additional right-of-way along Cambell Street and the access easements. However, as noted in the associated Preliminary Plat, a Master Utility Plan has not been submitted for review and approval to show where utilities may be required. In addition, construction plans for the access easements have not been submitted for review and approval. Staff is also recommending that the Preliminary Plat be revised to show the extension of Luna Avenue north of Eglin Street which may support the vacation of Spruce Street in lieu of constructing Spruce Street. The applicant has indicated that the Preliminary Plat will be revised to eliminate this portion of the property from the plat in order to further review the future street networking within this area of the property. As such, staff is recommending that the Variance to the Subdivision Regulations be continued to the April 5, 2007 Planning Commission meeting to allow the applicant to submit the additional information as identified.

Interstate 90: Interstate 90 is located along the north lot line of the subject property and is classified as a principal arterial street on the City's Major Street Plan. To date, curb, gutter, sidewalk, street light conduit, water and sewer have not been constructed along the street. Requiring that the street be improved as it abuts the subject property will create a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivisions to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right

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to protest any future assessment for the improvements.

E. North Street: E. North Street is located along the east lot line of the subject property and is classified as a principal arterial street on the City's Major Street Plan. To date, sidewalk, street light conduit, water and sewer have not been constructed along the street. Requiring that the street be improved as it abuts the subject property will create a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. In addition, water and sewer mains are being extended across E. North Street right-of-way to connect with off-site systems which will provide utility service to the properties within the area. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

Rapp Street: Rapp Street is classified as a commercial street requiring that it be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The construction plans show that Rapp Street is located in a 59 foot wide right-of-way and constructed with a varying pavement width of 28 feet to 40 feet, curb and gutter. Staff is recommending that the Variance to the Subdivision Regulations to waive curb and gutter along Rapp Street be denied without prejudice since the construction plans show the improvement.

Water and sewer currently exist within the existing Rapp Street right-of-way. As noted in the associated Preliminary Plat, Rapp Street is being vacated in part and relocated east of its current location. In addition, the applicant has indicated that the portion of Rapp Street to be vacated will be retained as a utility easement. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install water and sewer along the new section of Rapp Street be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

Rapp Street serves as access to several existing and proposed commercial developments. Sidewalks are needed along Rapp Street to provide a safe pedestrian route between the commercial developments. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install sidewalks along Rapp Street be denied.

Spruce Street: As noted in the associated Preliminary Plat, the plat document has been revised to eliminate this area of the property from the plat. In particular, the applicant has indicated that additional information will be submitted for review and approval to determine the best location for access to this area. As such, staff is recommending

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that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, street light conduit, water, sewer and pavement along Spruce Street be denied without prejudice to allow the applicant time to submit the additional information.

Sunnyside Avenue: Sunnyside Avenue is located along the south lot line of the subject property and is classified as a commercial street requiring that it be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Sunnyside Avenue is an unimproved street with an 80 foot wide right-of-way. Requiring that the street be improved as it abuts the subject property will create a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water, sewer and pavement be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements.

Cambell Street: Cambell Street is located along the south lot line of the subject property and is classified as a commercial street requiring that it be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. Currently, Cambell Street is an unimproved street with a 40 foot wide right-of-way. Requiring that the street be improved as it abuts the subject property will create a discontinuous street section. In the past, the Planning Commission and the City Council have granted similar requests when the improvement would create a discontinuous street section. As such, staff is recommending that the Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalk, street light conduit, water and sewer be approved with the stipulation that prior to City Council approval, the applicant sign a waiver of right to protest any future assessment for the improvements and that an additional 9.5 feet of right-of-way be dedicated.

Access Easements: The Preliminary Plat identifies four access easements serving as access to several of the proposed lots. The access easements are classified as commercial streets requiring that they be located in a minimum 59 foot wide right-of-way and constructed with a minimum 26 foot wide paved surface, curb, gutter, sidewalk, street light conduit, water and sewer. The plat document identifies the easements with varying widths from 30 feet to 75 feet. The applicant has requested a Variance to the Subdivision Regulations to waive the requirement to install curb, gutter, sidewalks, street light conduit, water and sewer and to dedicate the additional easement width along the access easements. In particular, the applicant has requested that the Final Planned Commercial Development serve as a tool to insure pedestrian access through the site, lighting, separation between the parking area and

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the access street(s) and utility extensions as needed. As such, staff is recommending that the Variance to the Subdivision Regulations as requested be approved with the stipulation that upon submittal of a Final Commercial Development Plan, pedestrian access be provided through the site, lighting be provided throughout the parking lots and along the access easements as needed, a separation be provided between the access easements and the parking areas, and utilities be extended as needed.

The applicant should be aware that a minimum 26 foot wide paved surface is required within the access easements. The construction plans show a varying pavement width of approximately 13 feet to 30 feet. A stipulation of the associated Preliminary Plat requires that the construction plans be revised to provide a minimum 26 foot wide pavement or the applicant must submit a Variance to the Subdivision Regulations to reduce the pavement width. To date, the applicant has not requested a Variance to the Subdivision Regulations to reduce the pavement width.

Legal Notification Requirement: The receipts from the certified mailings have been returned. Staff has not received several calls of inquiry regarding this proposal.